

REGULATION

PERSONNEL

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EMPLOYMENT REVIEW BOARD

Rescissions: (1) CIA Regulation No. []
(2) Paragraph H(2) of CIA Regulation No. []

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1. GENERAL

This Regulation states the authority and procedures for effecting summary termination of Agency employees through the exercise of the special authority granted the Director of Central Intelligence in section 102(c) of the National Security Act of 1947 (Public Law 253, 80th Congress).

2. STATUTORY AUTHORITY

The Director of Central Intelligence is empowered to terminate the employment of any officer or employee of the Agency whenever he deems such action necessary or advisable in the interests of the United States. Termination action under this authority, quoted below, is not subject to review by outside authority.

"Notwithstanding the provisions of section 6 of the Act of August 24, 1912 (37 Stat. 555), or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government

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if declared eligible for such employment by the United States Civil Service Commission."

3. RESPONSIBILITIES

a. EMPLOYMENT REVIEW BOARD

The Employment Review Board will advise the Director of Central Intelligence on the just and equitable exercise of this authority.

b. ASSISTANT DIRECTOR FOR PERSONNEL

The Assistant Director for Personnel will review all proposed involuntary termination actions to determine whether the case should be referred to the Employment Review Board or concluded through other administrative processing.

4. EMPLOYMENT REVIEW BOARD

a. MEMBERSHIP ROSTER

The Employment Review Board shall be composed of not less than three of the following officials as voting members together with a legal and security advisor:

All Deputy Directors and Assistant Deputy Directors, the Inspector General, all Assistant Directors and Deputy Assistant Directors, the Director and Deputy Director of Training, the Senior Staff Chiefs of the Office of the Deputy Director (Plans), heads of offices of the Deputy Director (Administration) and The Executive Assistant and Assistants to the Director

General Counsel or representative

- Advisor without
vote and Recording
Secretary

- 2/-

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Director of Security or representative

- Advisor without
vote

b. APPOINTMENT

The Deputy Director of Central Intelligence shall designate the membership of the Board to sit in each case and the member who shall function as Chairman. In the absence of the Deputy Director of Central Intelligence, the Board will be designated by the Assistant Director for Personnel or the Deputy Assistant Director for Personnel. No individual will be designated to sit as a member of the Board convened to consider the case of an employee assigned to his office.

c. MEETINGS

The Employment Review Board will meet at the call of the Chairman. Members will be notified several days in advance of their designation to sit in a particular case so that they may reserve the time and acquaint themselves with any necessary details in the case. ~~Once the Board has met on a given case,~~ the Chairman is responsible for arranging subsequent meetings and the timely completion of the case.

5. PROCEDURES

a. INITIATION

The Deputy Director (Intelligence), Deputy Director (Administration), Deputy Director (Plans), Director of Training, and the Assistant Director for Communications will refer any case recommending the involuntary separation of any employee under their jurisdiction directly to the Assistant Director for Personnel.

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b. INITIAL REVIEW

The Assistant Director for Personnel will review proposed involuntary terminations to determine whether they should be referred to the Employment Review Board or whether other separation procedures or administrative actions ^{would} be more appropriate. If the available information does not warrant Board attention, he will initiate processing of an appropriate ^{administrative} action. However, a proposed separation or other ^{administrative} action which has been initiated by the Agency may, at any state of processing, be referred to the Board if information developed in connection therewith indicates that this course is appropriate.

c. PRELIMINARY EMPLOYMENT REVIEW BOARD ACTION

- (1) Upon receipt of each proposed termination action the Board will conduct a preliminary review to determine:
 - (a) Whether there is sufficient evidence to warrant formal Board proceedings. If formal proceedings are not considered feasible, the Chairman will return the records with a memorandum so stating to the Assistant Director for Personnel.

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(b) Whether the employee should be permitted to remain in a work status during inquiry or investigation or should be placed in a leave status. Employees placed in a leave status under this authority will be given the option to use accrued annual leave to their credit or to be placed in a non-pay status. The Board will recommend action concerning the individual's status to the Assistant Director for Personnel.

(c) What information concerning the specific basis for Board action can be given the employee concerned.

(2) The Chairman of the Board will instruct the Assistant Director for Personnel as to further processing of the case in accordance with the Board's determinations.

(Chiefs of Major Components)
d. NOTICE TO ~~DEPUTY DIRECTORS AND ASSISTANT DIRECTORS~~

Prior to dispatch of notice to the employee, the Assistant Director for Personnel will personally notify the Deputy Director, or Assistant Director heading the organizational component concerned, verbally or in writing, of the action initiated.

e. NOTICE TO EMPLOYEE

(1) If the Board has determined that the employee ^{should not be permitted to} ~~may not~~ remain in a work status, he will be immediately placed on annual leave or leave without pay. If the employee has no annual leave to his credit and refuses to go on leave without pay, he will be suspended.

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- (2) The written notice provided ^{for} in (3) below will be sent to the employee at his home address by registered mail, return receipt requested, or personally delivered to him with acknowledgment of receipt being obtained on a carbon copy of the notice.
- (3) Written notice to the employee will contain the following information:
- (a) That information has been presented to the Employment Review Board indicating the possibility of his termination under the provisions of the law quoted in paragraph 2 of this Regulation.
 - (b) That his case will be considered by the Board in not less than five days but not more than ten days from the date of notification. (In cases of employees assigned in other than the Washington area, the period of time will be extended to twenty-one days to enable the employee either to appear at Agency expense or to submit a written statement for consideration.) If an extension of the time limit is necessary, the employee will forward a request justifying such an extension to the Assistant Director for Personnel.
 - (c) That he may submit to the Assistant Director for Personnel a written statement to be considered by the Board or a request to appear in person before the Board. All statements submitted in writing shall be notarized and all testimony given before the Board shall be under oath or affirmation.

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- (d) That the employee may resign voluntarily at any time prior to the Director's action or, if authorized by the Director, within 48 hours after an unfavorable decision by the Director.
- (e) Statement, concerning the specific basis for action, which has been authorized by the Board to be given to the employee. (See 5c(1)(c) above.)
- (f) That inquiries in connection with the notice or his reply should be submitted to the Assistant Director for Personnel.
- (g) Whether the employee will be retained in a work status during consideration of his case.

f. CONSIDERATION OF REPLY

- (1) If the employee desires to make a personal appearance before the Board, the schedule of appearances will be arranged by the Office of Personnel with the Recording Secretary of the Board.
- (2) If the employee submits a written statement, his reply will be forwarded immediately to the Recording Secretary of the Board.
- (3) A verbatim transcript of the Board's proceedings will be made in every case and will include any written material submitted by the employee as well as a full transcript of the testimony of any employee or witness appearing before the Board. Such transcripts shall accompany the Board's recommendation to the Director.

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6. BOARD RECOMMENDATIONS

The Board will give full consideration to each case, including voluntary written or verbal statements of individuals concerned and such additional evidence as may be deemed necessary and prepare a written recommendation to the Director. The recommendation will be signed by each voting member of the Board, noting concurrence or nonconcurrence in each case. Any member or advisor may append an individually signed comment.

7. FINAL ACTION

a. FINAL DECISION

The complete record of each case formally considered by the Board will be attached to the Board's recommendations for the information of the Director. The Director's decision in each case is final.

b. RESIGNATION

If the employee concerned elects to resign prior to completion of the case, the Recording Secretary of the Board will be notified immediately.

c. REMOVAL

If the Director's decision in the case is to terminate employment and the employee does not elect to resign, Standard Form 50, Notification of Personnel Action (or SF-52, as appropriate) will be prepared by the Office of Personnel. This form will show Nature of Action as "Removal" and the Authority as "By order of the Director of Central Intelligence. Subparagraph (c), section 102, National Security Act of 1947." There will be no amplification in the "Remarks" section.

d. REPORT TO THE CIVIL SERVICE COMMISSION

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When the termination is accomplished, as outlined in paragraph c above, the Office of Personnel will notify the U. S. Civil Service Commission, by letter, of the action taken. This report will not be made if the individual elects to resign.

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